United Nations CERD/C/SVN/CO/8-11

International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined eighth to eleventh periodic reports of Slovenia*

1. The Committee considered the combined eighth to eleventh periodic reports of Slovenia (CERD/C/SVN/8-11) at its 2404th and 2405th meetings (see CERD/C/SR.2404 and 2405), held on 1 and 2 December 2015. At its 2415th meeting, held on 9 December 2015, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the timely submission of the combined eighth to eleventh periodic reports of the State party, which included responses to the concerns raised in the Committee's previous concluding observations (CERD/C/SVN/CO/6-7). It also welcomes the oral presentation given by the State party's delegation, and the fact that the list of themes prepared by the country rapporteur (CERD/C/SVN/Q/8-11) was taken into account in the presentation. The Committee appreciates the open and constructive dialogue held with the delegation.

B. Positive measures

3. The Committee welcomes the efforts of the State party to amend its legislation and adopt programmes and administrative measures to give effect to the Convention, including:

(a) The amendment of the Criminal Code, in 2011, that criminalizes public incitement to hatred, violence and intolerance through the Internet and explicitly covers incitement to hatred on the basis of ethnic affiliation;

(b) Initiatives, under the National Programme of Measures for Roma for the period 2010-2015, to increase social and cultural capital; projects for strengthening access to education; and initiatives to foster work opportunities and strengthen access to water, sanitation and health facilities;

(c) The development of the National Programme of Measures for Roma for the period 2016-2021.

* Adopted by the Committee at its eighty-eighth session (23 November-11 December 2015).

C. Concerns and recommendations

Ethnic composition of the population

4. The Committee regrets that no up-to-date information on the ethnic composition of the population of the State party was made available, and notes that the most recent information dates to 2002. It reiterates its concerns that the statistical data available are not comprehensive and do not include information on persons from some minority groups, in particular Roma and minorities from the former Socialist Federal Republic of Yugoslavia (see CERD/C/SVN/CO/6-7, para. 7). The Committee is concerned that the lack of data disaggregated by ethnicity may limit the effective identification of population groups suffering direct and indirect discrimination and thus hinder efforts to define adequate policy making to protect such groups at the national, regional and local levels.

5. **Recalling its revised reporting guidelines (see CERD/C/2007/1, paras. 10-12), the Committee recommends that the state party diversify its data collection activities, using various indicators of ethnic diversity, on the basis of anonymity and self-identification of persons and groups and with particular emphasis on Roma and other minority groups from the former Socialist Federal Republic of Yugoslavia, to provide an adequate empirical basis for policies to enhance the equal enjoyment by all of the rights enshrined in the Convention and to facilitate the monitoring thereof. The State party should also ensure, including by adopting legislative measures, the collection of up-to-date information on the use of mother tongues as indicative of ethnic differences.**

Discrimination against Roma

6. While acknowledging the measures taken to improve the situation of Roma in the State party, including the implementation of the National Programme of Measures for Roma for the period 2010-2015, the Committee remains concerned about the continuing marginalization and precarious socioeconomic situation of Roma, which are further exacerbated by the adoption of austerity measures. The Committee is also concerned that the distinction between "autochtonous" and "non-autochtonous" Roma may result in disadvantages for non-autochtonous Roma in the enjoyment of their rights under the Convention. In particular, the Committee is concerned that:

(a) Despite the initiatives taken to promote education for Roma children, participation in education among the Roma communities is lower and the dropout rate is higher, particularly among girls, as compared to the general population;

(b) Roma continue to lack access to adequate housing, particularly social housing, which has led them to live in municipally owned agricultural areas in socially excluded localities (so-called settlements), and that an inclusive and comprehensive national policy on social housing is lacking;

(c) Roma are disproportionally affected by the absence of provisions prohibiting forced eviction;

(d) Roma communities are not sufficiently consulted in decisions regarding spatial planning and housing;

(e) The practice of forced and early marriage is prevalent among the Roma population;

(f) Access by Roma to employment and health services remains limited. A disproportionately large number of Roma have poor access to clean drinking water and adequate sanitation, exposing them to grave health risks (arts. 2, 4 and 5).

7. **In the light of its general recommendation No. 27 (2000) on discrimination against Roma, the Committee recommends that the State party ensure the effective implementation, monitoring and evaluation of the National Programme of Measures for Roma for the period 2016-2021. The Committee also recommends that the State party ensure that no discrimination exists between autochtonous and non-autochtonous Roma in the enjoyment of their rights under the Convention. In addition, the State party should:**

(a) **Continue to adopt measures to provide all Roma with effective access to high quality education at all levels;**

(b) **Ensure security of tenure for people living in informal settlements;**

(c) **Take all measures, including legislative measures, necessary to guarantee that evictions are carried out in accordance with international standards, and provide remedies and adequate alternative housing to those affected in cases of eviction;**

(d) **Adopt a comprehensive and inclusive housing policy with a specific focus on Roma communities that provides for the meaningful participation of Roma in spatial planning;**

(e) **Raise awareness of the dangers of early and forced marriage and effectively enforce its prohibition among the Roma communities, and include detailed information on the extent of those practices in its next report;**

(f) **Guarantee effective access for Roma to public services, such as electricity and health services, and to the formal labour market;**

(g) **Expeditiously step up efforts to provide access to adequate sanitation and safe drinking water for the Roma population, particularly those residing in the settlements.**

Combating hate speech and crimes

8. While noting the amendments made to the Criminal Code in 2011, the Committee expresses concern about:

(a) The limited extent to which the criminal provisions relating to racially motivated offences, particularly offences committed over the Internet, have been effectively implemented;

(b) The fact that racial motives are specified in the law as an aggravating circumstance in connection with the crime of murder only, and not other offences;

(c) Reports of lack of action in response to the use of racist and xenophobic rhetoric by political figures and the existence of organizations promoting racial hatred and violence;

(d) The absence of an independent body to investigate allegations of police misconduct, including racial profiling (arts. 2 and 4).

9. **In the light of its general recommendation No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party:**

(a) **Strengthen the response of its criminal justice system in cases of racist hate speech and racially motivated violence by ensuring effective investigation and appropriate prosecution and punishment of perpetrators, including website administrators, and by enhancing its efforts to provide training to police, prosecutors and judges on the application of laws on racist offences;**

(b) **Amend its criminal code to specifically recognize racist motives as an aggravating circumstance for all crimes and offences;**

(c) **Adopt a code of conduct for Members of Parliament, including provisions stressing the importance of avoiding and condemning racist and xenophobic discourse, and undertake all measures necessary to combat such discourse, including through the prohibition of organizations and activities promoting racial hatred and violence;**

(d) **Establish a new system, independent of the Ministry of the Interior, to investigate unlawful behaviour by the police.**

Participation of minorities in public and political life

10. The Committee remains concerned about the lack of representation of minorities, other than the Italian and Hungarian minorities, in Parliament and in regional elected bodies. The Committee is also concerned about reports that the Roma Community Council of the Republic of Slovenia, which represents the interests of the Roma community before State authorities, does not function effectively and that new Roma are not represented effectively at the local level, particularly in municipality councils (art. 5 (c)).

11. **In the light of its general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, and reiterating its previous recommendation (see CERD/C/SVN/CO/6-7, para. 12), the Committee recommends that the State party take concrete measures to ensure that all minority ethnic groups are adequately represented in Parliament and in regional elected bodies. The Committee also recommends that the State party ensure the effective functioning of the Roma Community Council of the Republic of Slovenia, including by revising the rules on its composition and its functions, and ensure the actual inclusion and representation of all Roma in municipality councils.**

Persons referred to as "the erased", and stateless persons

12. The Committee notes the adoption in 2010 of the act regulating the permanent residency status of all citizens of the successor States of the former Socialist Federal Republic of Yugoslavia who had been removed from the Slovenian registry of permanent residents in 1992 — persons referred to as "the erased". The Committee also notes the adoption in 2013 of the corresponding act regulating compensation for damage sustained as a result of erasure from the register of permanent residents. However, it remains concerned that:

(a) Under the 2010 act, applications for the restoration of residency status could be lodged only within three years from the date of entry into effect of the act — 24 July 2010. Consequently, only a limited number of persons who had been subjected to the erasure applied for the restoration of their residency status. A significant number of eligible persons who did not apply, particularly Roma residing outside the territory of the State party, have been excluded from the effects of the provisions of this act;

(b) All children born to erased persons outside the territory of the State party were de jure excluded from the provisions of the 2010 act, as they fell outside its scope;

(c) Only a limited number of persons have benefited from the act regulating compensation for damage sustained as a result of erasure from the register of permanent residents, as its provisions were applicable only to the persons who had successfully applied for the restoration of permanent residency before 24 July 2013;

(d) Erased persons continue to face difficulties in accessing education, training and employment;

(e) Procedures to determine statelessness are not in compliance with international standards (arts. 2 and 5-7).

13. **The Committee urges the State party to:**

(a) **Ensure that all erased persons have the possibility to restore their legal status without excessive administrative constraints, by extending indefinitely the applicability of the act regulating the permanent residency status of all citizens of the successor States of the former Socialist Federal Republic of Yugoslavia who had been removed from the Slovenian registry of permanent residents in 1992 and by disseminating information among such persons currently living outside the territory of the State party on this measure;**

(b) **Extend the applicability of the law to children who were born to erased persons outside the territory of the State party, and amend the citizenship act so that all children born in the territory of the State party are able to acquire Slovenian nationality if they would otherwise be stateless;**

(c) **Expedite the process of full and effective reparation, including restitution, compensation and satisfaction, to all individuals who suffered as a result of erasure, including family members born outside the territory of the State party;**

(d) **Ensure the full enjoyment by erased persons of their rights with respect to access to education, training and employment, paying special attention to Roma who were subjected to erasure;**

(e) **Guarantee that all necessary steps are taken to identify and protect stateless persons.**

Migrants, asylum seekers and refugees

14. While noting that an increasing number of migrants, refugees and asylum seekers have recently entered the territory of the State party and have been provided with shelter and basic services, the Committee expresses its concern about:

(a) The lack of conformity of the domestic definition of refugees with the Convention relating to the Status of Refugees;

(b) The absence of specific provisions prohibiting refoulement in the international protection act of 2007;

(c) The abrogation in 2013 of the right to family reunification in the relevant provisions of the international protection act;

(d) The lack of full compliance with international standards in the protection of separated and unaccompanied asylum-seeking children, in particular the lack of best-interest determination procedures and the adoption of a restrictive approach to age assessment;

(e) The low rates of investigation and conviction in cases of human trafficking and the lack of adequate mechanisms to identify, protect and rehabilitate victims of trafficking;

(f) The lack of free access to adequate secondary and tertiary medical health care and of social housing for asylum seekers and refugees (arts. 2 and 5-7).

15. **In the light of its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party:**

(a) **Amend the international protection act to adopt a clear and comprehensive definition of the term refugee fully in accordance with the Convention relating to the Status of Refugees;**

(b) **Ensure that laws concerning the removal of non-citizens from the jurisdiction of the State party do not discriminate in purpose or effect on the basis of race, colour or ethnic or national origin, and that non-citizens have equal access to effective remedies with respect to refoulement claims in removal proceedings;**

(c) **Introduce into the international protection act a specific reference to the right to family reunification and develop a system that would provide a procedure for challenging unfavourable administrative decisions on this issue;**

(d) **Protect the rights of separated and unaccompanied children seeking asylum in full compliance with international standards, including through the introduction of best-interests determination procedures and the adoption of the benefit-of-the-doubt standard in the event of remaining uncertainty in age assessment;**

(e) **Identify, rehabilitate and protect victims of human trafficking, irrespective of their ethnic affiliation and nationality, and ensure the prosecution of those responsible;**

(f) **Adopt all measures to ensure effective and equal access for asylum seekers and refugees to social housing and free public health services, including secondary and tertiary health care, and also ensure that all migrants, asylum seekers and refugees are provided with adequate basic services, shelter and humanitarian assistance while in transit in the territory of the State party.**

National human rights institutions

16. While noting the high number of complaints of racial discrimination received by the Human Rights Ombudsman, the Committee is concerned about the lack of adequate resources and security of tenure of the advocate of the principle of equality and about the absence of a national human rights institution mandated with human rights promotion.

17. **The Committee recommends that the State party establish a fully independent national human rights institution, including by allocating adequate financial resources and ensuring institutional independence in full accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

D. Other recommendations

Ratification of other treaties

18. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Reduction of Statelessness and the International Convention for the Protection of All Persons from Enforced Disappearance.**

Follow-up to the Durban Declaration and Programme of Action

19. **The Committee recommends that, when implementing the Convention in its domestic legal order, the State party take into account the relevant parts of the Durban Declaration and Programme of Action, in particular in respect of articles 2 to 7 of the Convention. The Committee also recommends that the State party include in its next periodic report information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.**

International Decade for People of African Descent

20. **In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.**

Consultations with civil society

21. **The Committee recommends that the State party continue consulting and expanding its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report.**

Amendment to article 8 of the Convention

22. **The Committee reiterates its recommendation, contained in the previous concluding observations, that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.**

Dissemination of information

23. **The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission, and that the concluding observations of the Committee with respect to those reports be similarly publicized on the website of the Ministry of Foreign Affairs in the official and other commonly used languages, as appropriate.**

Follow-up to the present concluding observations

24. **In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 7 (a), 9 (c) and 22 above.**

Paragraphs of particular importance

25. **The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 7, 13 and 15 above and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement those recommendations.**

Preparation of the next periodic report

26. **The Committee recommends that the State party submit its combined twelfth to fourteenth periodic reports, in a single document, by 6 July 2019, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) as well as addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.**